

EXHIBIT "A"

Alan I Moldoff/ESCM  
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bcc

Subject Sea Star - Emerald

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Kathy/Tim,

I have reviewed the most recent Sea Star Motion for Summary Judgment. As you will recall, Judge Farnan indicated at the June 24, 2008 pretrial conference before trial on the Sea Star complaint that he would not entertain motions for summary judgment and did not think a summary judgment motion was appropriate since he was hearing this matter as an impending bench trial. See specifically pages 13 -14 of the transcript of June 24, 2008 hearing. This situation is no different. Accordingly, please advise me if you will agree to voluntarily withdraw your Motion. Since we have agreed that the response date to the Motion is September 5, 2008, I would appreciate hearing from you about this by tomorrow. If you wish to discuss, please call. Thanks.

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